

The quarter push game described in this letter could not be regulated as a coin-operated amusement device because it returned money to the player. See 35 ILCS 510/1. (This is a GIL.)

April 14, 2003

Dear Xxxxx:

This letter is in response to your letter dated January 16, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am requesting a legal opinion regarding the legality of a game machine which is currently in use at a local convenience store. Currently, this game machine does not have a CITY game license, and before a license is approved, we would like to have an opinion from your department as to whether it is considered a gambling device as defined in the Illinois Compiled Statutes. Personnel from the Department of Revenue suggested I request a written opinion from Legal Services.

The game machine is called NAME. The game has also been referred to as a quarter pushing machine. The machine has two levels of trays. When a quarter is inserted into the machine, it is caught by a spinning wheel and deposited on the top tray. When the top tray becomes full, quarters spill onto the bottom tray. Both trays are moving forward and backward. The top tray is positioned slightly above the bottom tray so when the pile of quarters grows, the top tray will push a number of quarters off into a chute to be retrieved by the player.

We look forward to your reply and will delay the issuance of the CITY game license until we receive your response. Your assistance in this matter will be greatly appreciated.

Based upon your presentation of the game, it is our opinion that the game does not qualify as a coin-operated amusement device. Under the Coin-Operated Amusement Device and Redemption Machine Tax Act, a coin-operated amusement device is every coin-in-the-slot-operated amusement device, including a device operated or operable by insertion of coins, tokens, chips or similar objects, in this State which returns to the player thereof no money or property or right to receive money or property. The machine you have described does not fall within this definition because it returns money to the player.

The machine is also not a redemption machine. Under the Criminal Code of 1961, a redemption machine is:

...a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

- (A) The outcome of the game is predominantly determined by the skill of the player.
- (B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
- (C) Only merchandise prizes are awarded.
- (D) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.
- (E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device. 720 ILCS 5/28-2(a)(4).

The machine you have described returns money to the player. This fact alone disqualifies it. Second, the outcome of the game appears to be determined predominantly by where the quarter randomly lands after it is initially dropped and not by the skill of the player.

For these reasons, we conclude that the quarter push game you have described cannot be regulated under the Coin-Operated Amusement Device and Redemption Machine Tax Act. Whether the machine is a gambling device and would constitute a violation of Section 28-1(a)(3) of the Criminal Code of 1961 is an issue that is most properly referred to the State's Attorney's office, however.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.